

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

Office of Financial and Insurance Regulation
Petitioner

v

Enforcement Case No. 09-737-CU

Firststar Credit Union
a/k/a/
Firststar Lending Services
Respondent

For the Petitioner:

Randall S. Gregg
Office of Financial and Insurance Regulation
P.O. Box 30220
Lansing, MI 48909-7720

For the Respondent:

Firststar Credit Union a/k/a/
Firststar Lending Services
1800 Loucks Road, Suite 850
York, PA 17408

Issued and entered
this ~~11th~~ day of August 2009
by Ken Ross
Commissioner

FINAL DECISION

On April 7, 2009, Chief Deputy Commissioner Stephen R. Hilker issued a Notice of Charges and Notice of Hearing in this matter. (A Temporary Order to Cease and Desist was also issued on that date.) The Notices set forth detailed allegations that Respondent had violated provisions of the Michigan Credit Union Act (MCL 490.101, *et seq.*) and set hearing for May 12, 2009 at 9:00 a.m.

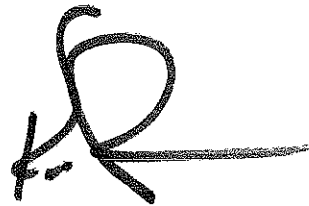
Respondent failed to appear for the hearing and the Petitioner filed a Motion for Final Decision by Default. On June 17, 2009, the administrative law judge assigned to this matter issued a Proposal for Decision granting Petitioner's motion and recommending that the Commissioner order Respondent to permanently cease and desist from its business operations.

The factual allegations and conclusions of law stated in the complaint and the Proposal for Decision are adopted and made part of this Final Decision.

ORDER

It is ordered that the Respondent shall immediately and permanently cease and desist from:

1. conducting business operations as Firststar Credit Union and
2. acting in violation of sections 104 and 301 of the Michigan Credit Union Act, MCL 490.104 and 490.301.

A handwritten signature in black ink, appearing to be 'KR' with a long horizontal stroke extending to the right.

Ken Ross
Commissioner

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

In the matter of

Docket No. 2009-616

Office of Financial and
Insurance Regulation,
Petitioner

Agency No. 09-737-CU

Agency: Office of Financial and
Insurance Regulation

v

Firststar Credit Union a/k/a
Firststar Lending Services,
Respondent

Case Type: Sanction/Cease & Desist

Issued and entered
this 17 day of June, 2009
by Renée A. Ozburn
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

On April 7, 2009, the Office of Financial and Insurance Services (OFIR/Petitioner) issued a Temporary Order to Cease and Desist and a Notice of Charges alleging that Firststar Credit Union, a/k/a Firststar Lending Services, (Firststar/Respondent) is in violation of the Michigan Credit Union Act, 2003 PA 215, as amended, MCL 490. 101 *et seq.*, (MCUA), and rules promulgated thereunder. On April 8, 2009, a Notice of Hearing was issued scheduling a contested case hearing for May 12, 2009 at 9:00 a.m. in hearing rooms of the State Office of Administrative Hearings and Rules located in Lansing, Michigan. The Order to Cease and Desist, Notice of Charges and Notice of Hearing were all mailed to the Respondent's last known address of record: 1800 Loucks Rd., Suite 850, York, PA 17408. The Notice of Hearing informs parties that a failure to appear for a hearing may result in a default judgment or decision against the non-appearing party.

On May 12, 2009, at the time scheduled for hearing, Attorney Randall Gregg, appeared and was ready to proceed on behalf of the Petitioner. The Respondent did not appear. The undersigned Administrative Law Judge deemed that the Respondent had been duly served with notice, and the hearing could proceed in Respondent's absence pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended, (APA) MCL 24.201 *et seq.* Mr. Gregg motioned for a default decision pursuant to Section 78 of the APA. The undersigned Administrative Law Judge granted a default. A default judgment constitutes a decision that allegations in the Order to Cease and Desist and Notice of Charges are true as alleged.

ISSUES AND APPLICABLE LAW

The issue in this matter is whether Firststar Credit Union violated Section 104 and Section 301 of the Michigan Credit Union Act, 2003 PA 215, as amended, MCL 490.101 *et seq.*, (MCUA), which provides:

490.104 "Credit union"; use in name or title; restrictions; "corporate" or "corporate central"; use in name.

Sec. 104.

(1) A person shall not use the words "credit union" in its name or any assumed names, unless it is 1 of the following:

(a) A domestic credit union or a foreign credit union.

(b) A credit union trade association.

(c) A credit union service organization.

(d) An organization that is wholly owned by 1 or more domestic credit unions, foreign credit unions, credit union trade associations, or credit union service organizations.

490.301 Domestic credit union; membership; organization; approval by commissioner; notice; disapproval; request to reconsider;

hearing; appeal; retention by commissioner of original certificate of organization and bylaws; delivery; form.

Sec. 301.

(1) Seven individuals, a majority of whom are residents of this state and all of whom are within the proposed field of membership of the domestic credit union, may file an application to organize a domestic credit union under this act. This subsection does not apply to the organization of a corporate credit union under this act.

(2) A domestic credit union is organized in the following manner:

(a) The applicants shall file an application in the form prescribed by the commissioner. The application shall contain all of the following information:

(i) The name and all proposed assumed names of the domestic credit union.

(ii) The location of the principal place of business and any initial branches of the domestic credit union.

(iii) The names and addresses of the applicants and the number of shares subscribed by each.

(iv) The par value of the shares of the domestic credit union. The par value of a share shall not exceed \$100.00.

(v) The proposed field of membership.

(vi) Any other information required by the commissioner.

(b) The applicants shall deliver the application to the commissioner, with an application fee in an amount established by the commissioner.

490.211 Temporary cease and desist order; conditions; injunction for setting aside order.

Sec. 211.

(1) If the commissioner determines that a violation or threatened violation or an unsafe or unsound practice or practices specified in the notice of charges served upon a domestic credit union under section 210, or the continuation of the violation or practice, is likely to cause insolvency or

substantial dissipation of assets or earnings of the domestic credit union, or is likely to otherwise seriously prejudice the interests of its depositors, the commissioner may issue a temporary order requiring the domestic credit union to cease and desist from that violation or practice. The temporary order is effective upon service upon the domestic credit union and is effective and enforceable until a cease and desist order under section 210 is issued and becomes effective or until it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court in a proceeding under subsection (2).

(2) Within 10 days after a domestic credit union has been served with a temporary cease and desist order under subsection (1), the domestic credit union may apply to the circuit court for the county in which the principal office of the domestic credit union is located for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the proceedings under section 210.

FINDINGS OF FACT

1. OFIR has received information regarding the ongoing Michigan business operations of Firststar Credit Union.
2. Firststar Credit Union is currently operating a business in the state of Michigan.
3. Firststar's website (www.firststarlendingservices.com) states that its office location is 1800 Loucks Road, Suite 850, York, Pennsylvania, 17408.
4. On March 26, 2009, Firststar placed advertisements with a Michigan newspaper, the Grand Blanc View, claiming that it is a credit union and attempting to sell consumer financial services.
5. On April 3, 2009, OFIR issued and served upon Firststar a Notice of Charges and Notice of Hearing, pursuant to Section 210 of the Michigan Credit Union Act, MCL 490.210, via Certified Mail and Facsimile Transmission.

6. Firststar is not a credit union organized pursuant to Section 301 of the Michigan Credit Union Act, MCL 490.301.

7. Firststar is not a credit union authorized to commence business in the state of Michigan pursuant to Section 301 of the Michigan Credit Union Act, MCL 490.301

8. Firststar is using the words "credit union" in its business name in violation of Section 104 of the Michigan Credit Union Act, MCL 490.104.

9. Firststar's ongoing business operations constitute continuing and multiple violations of the Michigan Credit Union Act.

CONCLUSIONS OF LAW

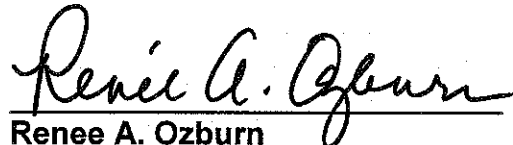
Petitioner bears the burden of proving, by a preponderance of the evidence, that the Respondent violated the MCUA as alleged, and that grounds exist for imposing sanctions. Having granted a default judgment, the undersigned Administrative Law Judge concludes that the aforementioned Findings of Fact establish that Respondent has violated Sections 104 and 301 of the Michigan Credit Union Act as alleged in the Notice of Charges issued on April 7, 2009.

PROPOSED DECISION

The undersigned Administrative Law Judge recommends that the Commissioner issue a Final Order accepting the above findings and conclusions and order Respondent to permanently cease and desist all further business operations.

EXCEPTIONS

The parties may file Exceptions to this Proposal for Decision within 20 days after it is issued. Exceptions should be addressed to the Office of Financial and Insurance Regulation, 611 West Ottawa Street, 3rd Floor, P.O. Box 30220, Lansing, Michigan 48909; Attention: Dawn Kobus.


Renee A. Ozburn
Administrative Law Judge